

**ANNEX III**

**BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON D.C.**



**CONTRACT No. XXX/CABW/2024**

**BIDDING PROCESS No. 240050-A/CABW/2024**

**PAG No. 67102.240050/2024-36**



-----**DRAFT CONTRACT**-----

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PAG No. **67102.240050/2024-36**  
CONTRACT No. **XXX/CABW/2024**

HIRING A SPECIALIZED COMPANY TO SUPPLY A LANDING GEAR SET FOR THE AIRBUS A330-200 AIRCRAFT, AS ESTABLISHED IN THE TERM OF REFERENCE 004/PAMAGL-TTEC/2024, WHICH THE BRAZILIAN FEDERAL GOVERNMENT ENTERS, THROUGH THE BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON, WITH THE COMPANY [COMPANY NAME].

The Brazilian Government, through the Brazilian Aeronautical Commission in Washington, with headquarters at 1701 22nd St NW, Washington, DC, Zip Code 20008, USA, hereby represented by **Col. JANO FERREIRA DOS SANTOS**, in the use of its legal powers, and in accordance with § 1 of article 89 of Federal Law No. 14,133/2021, hereinafter referred to as CONTRACTING PARTY, and the company [COMPANY NAME], headquartered at [STREET], Zip Code [POSTAL CODE], in the Municipality [STATE/MUNICIPALITY], hereinafter the CONTRACTED PARTY, hereby represented by **Mr./Ms. [NAME OF LEGAL REPRESENTATIVE]**, holder of ID No. [ID No.], and in view of the content of PAG No. 67102.240050/2024-36, and the final result of the Bidding Process No. 240050/CABW/2024, based on the premises contained in article 1, of Annex III, of Ordinance GM-MD No. 5,175, of December 15, 2021, MCA 176-1, and related legislation, resolve to enter into this contract and execute this instrument, in accordance with the following terms and conditions:

## **1. CLAUSE FIRST - DEFINITIONS**

**1.1.** To make terminology easier to understand and simplify the text, the following abbreviations and expressions have been adopted, followed by their definitions below:

**1.2. ADMINISTRATION** - Brazilian Federal Government, represented by the Brazilian Aeronautical Commission in Washington;

**1.3. COMAER** - Aeronautical Command;

**1.4. CONTRACTED PARTY** - Individual or legal entity contracted responsible for the execution of the object of this contract;

**1.5. CONTRACTING PARTY** - Brazilian Aeronautical Commission in Washington, DC (BACW);

**1.6. EXPENDITURE CONTRACT** or **CONTRACT** - The Contract that the Public Administration (CONTRACTING PARTY), acting as such, signs with a private individual or another Administrative Entity (CONTRACTED PARTY), for the execution of the object in question and under the conditions established by the Public Administration itself;

**1.7. AUTHORIZING OFFICER** - Administrative agent with the power to carry out acts that result in quotes for resources, authorize payment, supply resources, approve budgets, among other actions;



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**1.8. FAB** - Brazilian Air Force;

**1.9. INVOICE** - Commercial document that formalizes the act of purchase and sale, which must contain, among other information, the following data: quantity of supply, unit of supply, price, payment terms, taxes, fees, and FAB purchase order number;

**1.10. OM** - Military Organization;

**1.11. MONITOR** - The individual or committee that represents the CONTRACTING PARTY before the CONTRACTED PARTY, designated to systematically supervise compliance with the contractual clauses and complementary orders issued by the Government, in all its aspects;

**1.12. PAAI** - Formal internal administrative procedure consisting of the recording of all acts to ascertain the administrative facts necessary to clarify and review the judgments of the competent authority, allowing for due process, which will culminate in the application or not of administrative sanctions;

**1.13. PAG** - Administrative Management Process;

**1.14. TERM OF REFERENCE** - According to Law No. 14,133, of April 1, 2021, it is the document required for contracting goods and services, which must contain the parameters and elements listed in item XXIII, of article 6<sup>th</sup>. It is prepared based on suggestions taken from preliminary technical studies, which guarantee the technical feasibility and adequate treatment of the environmental impact of the project, as well as the evaluation of the costs of the project or service, defining the methods and deadlines for its execution; and

**1.15. TERM OF RECEIPT** - Document issued by COMREC certifying receipt of the object;

**1.16. BACW** - Brazilian Aeronautical Commission in Washington;

**1.17. FCA (Free Carrier)** - Term dictating that a seller of goods is responsible for the delivery of those goods to a destination specified by the buyer. INCOTERMS 2020;

**1.18. COMREC** - Goods and Services Receipt Commission;

**1.19. CTLA (Air Force Logistics Transport Center)** - Located at Estrada Alfredo Rocha, 495 - Ilha do Governador - Rio de Janeiro - RJ - Brazil, CEP 21941-580; and

## **2. CLAUSE SECOND - OBJECT**

**2.1.** The purpose of this instrument is to contract a company to supply 01 (one) set of landing gear for Airbus A330-200 aircraft to serve COMAER in support of Project C1 (KC-30 aircraft), in accordance with the conditions and requirements set out in Term of Reference 004/PAMAGL-TTEC/2024.

**2.2.** This contract is binding, regardless of transcription:

**2.2.1.** The Term of Reference;

**2.2.2.** The Bidding Notice;

**2.2.3.** The CONTRACTED PARTY's Price Proposal;

**2.2.4.** Any annexes to the aforementioned documents.



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**2.3.** The following annexes are an integral part of this contract, regardless of whether or not they are transcribed here:

**ANNEX A** - TERM OF REFERENCE;

**ANNEX B** - CONTRACTED PARTY'S PRICE PROPOSAL; and

**ANNEX C** - PHYSICAL-FINANCIAL SCHEDULE.

### **3. CLAUSE THIRD - VALIDITY AND EXTENSION**

**3.1.** The contract is valid for **240 (two hundred and forty)** days from the signing of the contract.

**3.2.** The CONTRACTED PARTY does not have a subjective right to a contractual extension.

**3.3.** The contract must be extended by means of an addendum.

**3.4.** The contract may not be extended when the CONTRACTED PARTY has been penalized by the sanctions of being declared unfit or prevented from bidding and contracting with public authorities, observing the scope of application.

### **4. CLAUSE FOURTH - CONTRACTUAL EXECUTION AND MANAGEMENT MODELS**

**4.1.** The object of this contract will be executed by CONTRACTED PARTY as described herein and in accordance with the TERM OF REFERENCE, Annex A.

**4.2.** The CONTRACTED PARTY shall maintain all the conditions for qualification during the bidding process throughout the term of this CONTRACT.

**4.3.** The contractual execution regime, the management and execution models, as well as the deadlines and conditions for completion, delivery, observation, and receipt of the object are set out in the Term of Reference, attached to this Contract.

### **5. CLAUSE FIFTH - SUBCONTRACTING**

**5.1.** The subcontracting is limited to cases in which the CONTRACTED PARTY presents, at the time of delivery of the object, the certificates of conformity, guarantees and supporting documents provided for in the requisition, all related to quality assurance and traceability of the object of the contract.

**5.2.** It is forbidden to subcontract the whole or the main part of the contract, which consists of supplying the landing gear set that is the subject of this contract.

**5.3.** The subcontracting may cover the packaging of the material, its transportation to the place of delivery foreseen in this contract, repairs related to the warranty and maintenance provided for in the item 5 of the Term of Reference, and other activities necessary for the execution of the object by the CONTRACTED PARTY.

**5.4.** The subcontracting is the sole and exclusive responsibility of the CONTRACTED PARTY, and shall be held solely liable for the guarantees, not only of the object and the deadlines, but also for the insurance coverage it is responsible for.



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5.5. The CONTRACTING PARTY may assess whether the subcontractor meets the technical qualification requirements for the execution of the object.

5.6. In the event of subcontracting, the CONTRACTED PARTY shall remain fully responsible for the perfect execution of the contract, supervision, and coordination of the subcontractor's activities, as well as being liable for the strict contractual obligations corresponding to the subcontracting object.

5.7. The CONTRACTING PARTY shall not be liable for any commitments assumed by the CONTRACTED PARTY with third parties, even if linked to the execution of the Term of Reference, as well as for any damage caused to third parties as a result of an act by the CONTRACTED PARTY, its employees, agents, or subordinates.

5.8. The CONTRACTED PARTY may not provide or pass on to third parties any information or data on the performance of the contract.

## **6. CLAUSE SIXTH - PRICE**

6.1. The total value of the contract is **US\$..... (.....)**

6.2. The above amount includes all ordinary direct and indirect expenses arising from the execution of the object, including taxes, social, labor, social security, fiscal and commercial charges, administration fees, freight, insurance, and others necessary for full compliance with the object of the contract.

## **7. CLAUSE SEVENTH - PAYMENT**

7.1. The payment will be made in accordance with the Public Notice.

## **8. CLAUSE EIGHTH - ADJUSTMENT**

8.1. The contracted price is fixed and cannot be changed in the first 12 (twelve) months of execution of the Contract.

8.2. After the first 12 (twelve) months, the agreed price may be adjusted, upon request of the CONTRACTED PARTY, and the amount of the price adjustment may not exceed the maximum rate of change indicated in the Consumer Price Index for All Urban Consumers (CPI- U) - Expense Category - All Items, issued by the Bureau of Labor Statistics - BLS, exclusively for obligations initiated and completed after the 12 (twelve) month period. In adjustments subsequent to the first, the minimum interval of 12 months (one year) will be counted from the financial effects of the last adjustment.

8.3. In adjustments subsequent to the first, the minimum interval of 12 months (one year) shall be counted from the financial effects of the last adjustment. In final measurements, the index used for adjustment will necessarily be the definitive one.

8.4. In the event of delay or non-disclosure of the readjustment index, the CONTRACTING PARTY shall pay the CONTRACTED PARTY the amount calculated by the last known variation, if applicable, settling the corresponding difference as soon as the definitive index is released.



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- 8.5.** In the final measurements, the index used for readjustment will necessarily be the final one.
- 8.6.** If there is no legal provision for a substitute index, the parties shall choose a new official index to readjust the price of the remaining amount, by means of an amendment. The CONTRACTING PARTY may take steps to ensure the variation in costs proposed by the CONTRACTED PARTY.
- 8.7.** If there is no legal provision for a substitute index, the parties shall choose a new official index to readjust the price of the remaining amount, by means of an amendment.
- 8.8.** The adjustment will be made by means of an Apostille.
- 8.9.** The inclusion of benefits not provided for in the initial price proposal is prohibited, except when they become mandatory by legal instrument.
- 8.10.** The CONTRACTING PARTY may carry out due diligence to ensure the variation in the costs proposed by the CONTRACTED PARTY.
- 8.11.** The submission of an adjustment proposal by the CONTRACTED PARTY does not imply its acceptance by the CONTRACTING PARTY, which may choose not to renew the contract for the next 12 months.

## **9. CLAUSE NINETH - OBLIGATIONS OF THE CONTRACTING PARTY**

- 9.1.** In addition to what is established in the Term of Reference, the CONTRACTING PARTY, through the assistance of the CONTRACT MONITOR, duly designated for this function, shall:
- 9.1.1.** Appointing a RECEIPT COMMISSION (COMREC), by means of an Internal Document, to proceed with the receipt of the qualitative and quantitative object of the CONTRACT;
  - 9.1.2.** Providing all the conditions for the CONTRACTED PARTY to carry out its obligations in accordance with the provisions of the CONTRACT, the Public Notice, and its Annexes, and especially the Term of Reference;
  - 9.1.3.** Demanding compliance with all the obligations assumed by the CONTRACTED PARTY in accordance with the provisions of the CONTRACT and the terms and conditions of its proposal;
  - 9.1.4.** Provide monitoring of the object of this contract by an employee specifically designated for the task, who must record the errors found in his own diary;
  - 9.1.5.** Notify the CONTRACTED PARTY in writing of the occurrence of any irregularities during the execution of the purpose of this contract, and establish a deadline for their correction;
  - 9.1.6.** Pay the CONTRACTED PARTY the amount due for the execution of the object, as established in the CONTRACT, upon receipt and acceptance of the Invoice; and
  - 9.1.7.** Ensuring that, throughout the term of the CONTRACT, all the eligibility and qualification conditions required in the bidding process are maintained, in line with the obligations assumed by the CONTRACTED PARTY.



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## **10. CLAUSE TENTH - OBLIGATIONS OF THE CONTRACTED PARTY**

**10.1.** In addition to what is established in the TERM OF REFERENCE, the **CONTRACTED PARTY** must:

**10.1.1.** Execute the object in accordance with the specifications of the TERM OF REFERENCE and its proposal, with the resources necessary to fully comply with the provisions of the CONTRACT;

**10.1.2.** Strictly comply with the specifications and instructions contained in the Public Notice;

**10.1.3.** Assume full responsibility for the execution of the contract;

**10.1.4.** Ensuring the supply of all materials and equipment necessary for the full and perfect fulfillment of contractual obligations;

**10.1.5.** Take responsibility for the selection, qualification, transportation, food, accommodation, hiring and dismissal of its employees, as well as for their legal situation before the labor, traffic, insurance, health, and social security authorities. Failure by the CONTRACTED PARTY to comply with the obligations established herein does not make the CONTRACTED PARTY responsible for payment;

**10.1.6.** The CONTRACTED PARTY shall also be liable for any damage caused directly to the CONTRACTING PARTY as a result of the execution of the object of this contract by the CONTRACTED PARTY's employees or appointed agents

**10.1.7.** Provide all clarifications requested by the CONTRACTING PARTY and responding immediately to any complaints;

**10.1.8.** Replace, at no cost to the CONTRACTING PARTY, any material or equipment supplied that suffers any kind of damage caused by the misuse of its employees, or that has been rejected during inspection tests;

**10.1.9.** The CONTRACTED PARTY is prohibited from disclosing to third parties any information about the nature or progress of the execution of the object contemplated in this Contract, as well as from notifying the written or oral press, including television and/or any other means of public disclosure, except with the explicit consent of the CONTRACTING PARTY;

**10.1.10.** Assume all civil liability for the execution of the object and for damages caused by action or omission on the part of the CONTRACTED PARTY's employees, workers, agents, or representatives, intentionally or unintentionally, before the Brazilian Government (Brazilian Air Force Command) and third parties;

**10.1.11.** Use qualified employees who have essential knowledge of the supply that will be carried out in accordance with the rules and regulations in force;

**10.1.12.** Assume responsibility for all labor, social and tax obligations, as well as any other duties or obligations provided for in specific legislation, the breach of which shall not result in liability for the CONTRACTING PARTY;

**10.1.13.** Instruct your employees on the need to follow the guidelines provided by the CONTRACTING PARTY, including with regard to the CONTRACTING PARTY's internal regulations, if any;





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- 10.1.14.** Maintain throughout the term of the Contract, in accordance with the obligations assumed, all eligibility and qualification conditions required in the bidding process;
- 10.1.15.** Do not transfer to third parties, in any way, not even partially, any of the responsibilities assumed without the prior and express written approval of the BACW under the terms of this AGREEMENT;
- 10.1.16.** Responsible for the costs arising from any mistakes made in the calculation of the quantitative items of your proposal, including with regard to variable costs associated with future and uncertain facts, being responsible for covering these items if what was initially foreseen in your proposal is not enough to carry out the purpose of the bidding;
- 10.1.17.** The CONTRACTED PARTY shall appoint a Manager for the purpose of overall management of the CONTRACT monitoring activities and representation with the CONTRACT FISCAL;
- 10.1.18.** Meet all of the CONTRACTING PARTY's requirements, especially those relating to deadlines, execution, and completion of the contracted object;
- 10.1.19.** Responsible for any claims and financial charges that may arise from any legal actions, or damages caused directly or indirectly by the CONTRACTED PARTY, and which may eventually be attributed to the BACW by third parties;
- 10.1.20.** Promptly communicate, in writing, to the BACW, any and all information related to any errors, mistakes or failures found in the Term of Reference; and
- 10.1.21.** Use of appropriate equipment and tools, which allow the correct execution of the object and use efficient and safe working methods.

## **11. CLAUSE ELEVENTH - FINANCIAL GUARANTEE**

- 11.1.** The CONTRACTED PARTY, within 10 (ten) working days of signing the Contract Term or accepting the equivalent instrument, shall provide a guarantee in the amount corresponding to 5% (five percent) of the total value of the Contract, valid during the execution of the contract and 90 (ninety) days after the end of the contract term, which will be released in accordance with the conditions set out in the Public Notice, provided that all contractual obligations have been fulfilled.
- 11.2.** The financial guarantees for future contracts must be presented in US dollars. The beneficiary of the contractual/financial guarantees will be the Brazilian Aeronautical Commission in Washington (CABW), with headquarters at 1701 22nd Street, N.W. ZIP: 20008, in the city of Washington, District of Columbia.
- 11.3.** If the financial guarantee is refused, the CONTRACTING PARTY will consider it not to have been delivered, and the company will be liable to the sanctions provided for in the Term of Reference and in the except in duly justified and proven cases of unforeseeable circumstances or force majeure.
- 11.4.** The CONTRACTED PARTY shall choose one of the following types of guarantees:
- 11.4.1.** guarantee in cash or public debt securities, which must have been issued in book-entry form, registered with a centralized settlement and custody system authorized by the Banco Central do Brasil, and valued at their economic value, as defined by the Ministry of Economy;



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**11.4.2.** guarantee insurance; or

**11.4.3.** bank guarantees.

**11.5.** The cash guarantee must be made payable to the CONTRACTING PARTY, at a bank indicated by the CONTRACTING PARTY, with monetary correction in favor of the CONTRACTING PARTY, and must be valid for at least ninety days beyond the term of the contract.

**11.6.** If the event of a change in the value of the contract, or extension of its term, the guarantee must be adjusted or renewed, following the same parameters used when contracting, within a maximum of 10 (ten) working days.

**11.7.** The guarantee will ensure, whichever method is chosen, the payment of:

**11.7.1** damages arising from failure to fulfill the object of the contract and failure to comply with the other obligations set out therein;

**11.7.2** default and punitive fines imposed by the Administration on the CONTRACTED PARTY.

**11.8.** Any guarantee that does not cover all possible risks and damages associated with the execution of the contract will not be accepted.

**11.9.** 9 If the value of the guarantee is used, in whole or in part, the CONTRACTED PARTY must replace it within a maximum of 10 (ten) working days from the date of receipt of the notification.

## **12. CLAUSE TWELFTH - VIOLATIONS AND ADMINISTRATIVE SANCTIONS**

**12.1.** The CONTRACTED PARTY commits an administrative offense if:

- a) causes partial non-performance of the contract;
- b) causes partial non-performance of the contract that causes serious damage to the Administration or to the operation of the public object or to the collective interest;
- c) give to gives rise to a total breach of contract;
- d) cause delay in the execution or delivery of the object of the contract without a justified reason;
- e) present false documentation or make a false statement during the execution of the contract;
- f) commit a fraudulent act in the execution of the contract;
- g) behave inappropriately or commit fraud of any nature;
- h) commit a harmful act provided for in article 5 of Law No. 12,846, of August 1, 2013, namely:

I - Promising, offering or giving, directly or indirectly, an undue advantage to a public agent, or a third person related to him or her;

II - Provenly finance, fund, sponsor or in any way subsidize the practice of illegal acts provided for in this Law;



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III - Proven to use an interposed natural or legal person to hide or dissimulate their real interests or the identity of the beneficiaries of the acts carried out;

IV - Regarding tenders and contracts:

- a) Compromise or defraud, through adjustment, combination or any other expedient, the competitive nature of a public bidding procedure;
- b) prevent, disrupt, or defraud the performance of any public bidding procedure;
- c) remove or seek to remove a bidder, through fraud or offering an advantage of any type;
- d) defraud a Bidding Process or contract;
- e) create, fraudulently or irregularly, a legal entity to participate in public bidding or enter into an administrative contract;
- f) fraudulently obtain an undue advantage or benefit from modifications or extensions of contracts signed with the public administration, without authorization by law, in the act calling for public bidding or in the respective contractual instruments; or
- g) manipulate the economic and financial balance of contracts entered into with the public administration;

V - Hinder the investigation or inspection activities of the public bodies, entities, or agents, or intervening in their activities, including within the scope of regulatory agencies and national financial system inspection bodies.

**12.2.** The following sanctions shall be applied to the CONTRACTED PARTY who incurs the above infractions:

- i) **Warning**, when the CONTRACTED PARTY causes the contract not to be partially performed, whenever the imposition of a more serious penalty is not justified;
- ii) **Impediment from bidding and contracting**, when the conduct described in subparagraphs "b", "c" and "d" of the above sub-item of this Contract is practiced, whenever the imposition of a more serious penalty is not justified;
- iii) **Declaration of ineligibility to bid and contract**, when the conduct described in subparagraphs "e", "f", "g" and "h" of the above sub-item of this Contract, as well as in subparagraphs "b", "c" and "d", justifies the imposition of a more serious penalty;
- iv) **Fine:**
  - (1) Penalty of 0.5% (five tenths of a percent) per day of unjustified delay on the value of the defaulted installment, up to a limit of 30 (thirty) days.
  - (2) Penalty of 0.05% (five hundredths of a percent) of the total value of the contract per day of unjustified delay, up to a maximum of 2% (two percent), for failure to comply with the deadline set for submitting, supplementing, or replacing the guarantee.
    - a) a delay of more than 60 days authorizes the Administration to terminate the contract due to non-compliance or irregular compliance with its clauses.



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(3) Compensation, for the infractions described in subparagraphs "e" to "h" of sub-item 12.1, of 10% of the value of the Contract.

(4) Compensation, for total non-performance of the contract as described in sub-item 12.1 "c", of 10% of the value of the Contract.

(5) For the infraction described in paragraph "b" of subitem 12.1, the fine will be 5% of the value of the Contract.

(6) For infractions described in paragraph "d" of subitem 12.1, the fine will be 2% of the value of the Contract.

(7) For the infraction described in paragraph "a" of subitem 12.1, the fine will be 5% of the value of the Contract.

**12.3.** The application of the sanctions provided for in this Contract does not, under any circumstances, exclude the obligation to make full reparation for the damage caused to the CONTRACTING PARTY.

**12.4.** All sanctions provided for in this Agreement may be applied cumulatively with the fine.

**12.4.1.** Before the fine is imposed, the interested party will be allowed to defend themselves within 15 (fifteen) working days, counting from the date of the summons.

**12.5.** If the fine applied and the applicable compensation are greater than the amount of payment eventually owed by the CONTRACTING PARTY to the CONTRACTED PARTY, in addition to the loss of this amount, the difference will be deducted from the guarantee provided or will be charged legally.

**12.6.** Prior to forwarding to judicial collection, the fine may be collected administratively within a maximum period of 5 (five) working days, counting from the date of receipt of the communication sent by the competent authority.

**12.7.** The application of sanctions will be conducted in an administrative process that ensures contradictory and full defense to the CONTRACTED PARTY.

**12.8.** When applying sanctions, the following will be considered:

- a) the nature and severity of the offense committed;
- b) the peculiarities of the specific case;
- c) the aggravating or mitigating circumstances;
- d) any damages arising to the CONTRACTING PARTY;
- e) the implementation or improvement of an integrity program, in accordance with standards and guidelines from control bodies.

**12.9.** The CONTRACTED PARTY's debts to the contracting administration, resulting from administrative fines and/or indemnities, which are not registered as active debt, may be offset, in whole or in part, against the credits owed by the said body arising from this same contract or from other administrative contracts that the CONTRACTED PARTY has with the same contracting body.

### **13. CLAUSE THIRTEENTH - CONTRACT TERMINATION**



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**13.1.** The contract will be terminated when the period stipulated in it expires, regardless of whether or not the obligations of both contracting parties have been fulfilled.

**13.2.** The contract may be terminated before the obligations stipulated therein are fulfilled, or before the deadline set therein, unilaterally due to failure or non-performance of the CONTRACTED PARTY, as well as amicably, ensuring the adversarial process and full defense.

**13.3.** Corporate alterations or changes to the company's purpose or structure shall not give rise to termination if they do not restrict the company's ability to conclude the contract.

**13.4.** If the operation involves changing the contracted legal entity, an addendum must be formalized for subjective change.

#### **14. CLAUSE FOURTEENTH - BUDGET ALLOCATION**

**14.1.** The expenses arising from this contract will be covered by specific funds set aside in the Federal Budget for this financial year, in the appropriation listed below:

- I. Management/Unit:
- II. Source of Resources:
- III. Work Program:
- IV. Expense Element:
- V. Internal Plan:
- VI. Commitment Note:

#### **15. CLAUSE FIFTEENTH - CHANGES TO THE CONTRACT**

**15.1.** Pursuant to article 125, of Law No. 14,133/2021 (Brazil), the CONTRACTED PARTY is obliged to accept, under the same terms and conditions, any changes that imply an increase or decrease in the value of the object's demand, which may be necessary, to the BACW's discretion, up to a limit of 25% (twenty-five percent) of the total original value of the Contract.

**15.1.1.** Since demands are estimated based on the characteristics of the OBJECT of this CONTRACT, reductions in the amount that exceeds the limit of 25% (twenty-five percent) of the Contract may occur during the execution of the CONTRACT at the sole discretion of the CONTRACTING PARTY.

**15.1.2.** The set of increases and the set of reductions will be calculated on the basis of the original deliveries of the Contract, on a case-by-case basis, without any type of indemnity up to the limits established above.

**15.2.** The contract may be amended, with due justification and evidence, to re-establish the initial economic and financial balance of the contract in the event of force majeure, unforeseeable circumstances, or events of incalculable consequences, which make it impossible to perform the contract as agreed, respecting, in any case, the objective distribution of risk established in the contract.

#### **16. CLAUSE SIXTEENTH - CONTRACTUAL SUPERVISION**



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**16.1.** The MONITOR must be an agent or agents of the Administration, specifically appointed by the Administration, in accordance with the precepts established by the Ordinance No. 5,175/21, ICA No. 65-8/2024 (Responsibilities of the MONITOR and Receiving Committee), ICA No. 12-23/2023 (Inspection and Receipt of Goods, Services and Application of Administrative Sanctions) and the Electronic Manual for the Supervision of Administrative Contracts (Annex K of RADA-e), in order to monitor and supervise compliance with the contract to be entered into.

**16.2.** Monitoring contractual compliance consists of checking the conformity of the goods and allocating the necessary resources.

**16.3.** Verification of adequate contractual compliance must be carried out based on the criteria established in the TERM OF REFERENCE and in accordance with the contractual terms.

**16.4.** The execution of the contract shall be monitored and supervised by means of supervisory instruments, including the monitoring of compliance with the obligations arising from this CONTRACT.

**16.5.** The MONITOR shall record all events related to the execution of the Contract.

**16.6.** The CONTRACTING PARTY's supervision of the execution of the contract does not eliminate the CONTRACTING PARTY's liability, including to third parties, for any irregularity, even if it arises from technical imperfections, faults, or improper use of equipment, and when such occurrences do take place, they do not imply any liability on the part of the CONTRACTING PARTY, its agents, or employees.

**16.7.** The MONITOR must, additionally, comply with the following processes:

**16.7.1.** Observe and execute, when applicable, all procedures established in ICA No. 65-8/2024 and ICA No. 12-23/2023;

**16.7.2.** Monitor the development of all requests issued to the CONTRACTED PARTY;

**16.7.3.** Monitor the performance of the contract until it is received by CTLA;

**16.7.4.** Submit all proposals, questions, discrepancies, and difficulties encountered during contractual execution or that require approval and/or decision for evaluation by the EXPENDITURE ORDERER;

**16.7.5.** Receive INVOICES, compare them with the values established in the CONTRACT, certify them and forward them to the EXPENSES ORDERER for approval;

**16.7.6.** All INVOICES must detail, as a minimum, the unit and total values of each cost, values of duties charged, PROCESSING costs and discounts offered, weight and volume of cargo and FAB request number. All supporting documentation must be attached to the INVOICE for validation by the COMREC;

**16.7.7.** If there are other inputs that could influence the cost, they must be detailed; and

**16.7.8.** Issue, by the fifth day of the following month, a Contract Status Report, in accordance with ICA No. 65-8/2024 and ICA No. 12-23/2023, to the Administration.

## **17. CLAUSE SEVENTEENTH - RECEIPT OF THE OBJECT**



-----**DRAFT CONTRACT**-----

**17.1.** The items object to the CONTRACT will be received by the Receiving Committee in accordance with the specifications established in the TERM OF REFERENCE, Annex A of this Contract.

**17.1.1.** All proposals, doubts, discrepancies, and difficulties encountered during the execution of the CONTRACT, or that require an evaluation, must be presented to the CONTRACTING OFFICER for approval and/or a determination must be approved by the Head of BACW.

## **18. CLAUSE EIGHTEENTH - MODIFICATION OF THE CONTRACTED PARTY**

**18.1.** The merger, alienation, or incorporation of the CONTRACTED PARTY with/into another entity is permitted, provided that all the qualifications established in the bid are maintained, all the clauses of the contract are maintained, there is no prejudice to the conclusion of the contract, and the CONTRACTING PARTY, at its discretion, formally accepts the above in order to continue with the execution of the contract.

## **19. CLAUSE NINETEENTH - ACT OF GOD OR FORCE MAJEURE**

**19.1.** Acts of God or force majeure must be notified in writing to the Head of the BACW, through the MONITOR, for it to decide on the appropriate course of action, provided that it is proven that such events affect the performance of the object of this CONTRACT.

**19.2.** For the purposes of this CONTRACT, events will be considered unforeseeable or force majeure if they fall within the legal description provided for in the sole paragraph of article 393 of the Brazilian Civil Code, or in letter "d" of Item II, of article 124, of Federal Law No. 14,133/2021 (Brazil).

## **20. CLAUSE TWENTIETH - LANGUAGE**

**20.1.** It is agreed between the parties that the language of this CONTRACT, for the purposes of documentation, correspondence, and any other interests, shall be **English**.

## **21. CLAUSE TWENTY-FIRST - JURISDICTION AND CHOICE OF LAW**

**21.1.** This Agreement shall be made and construed in accordance with the principles of Law of the District of Columbia, without regard to any jurisdiction or conflict of laws doctrine that may apply. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

**21.2.** The parties agree to make a diligent and good faith attempt to resolve all disputes amicably before either party initiates litigation upon termination of the contract.

**21.3.** Any dispute or claim arising out of or relating to this Agreement, as a breach thereof, shall be submitted to the Superior Court of the District of Columbia or the United States District Court for the District of Columbia, to the exclusive jurisdiction of which the parties irrevocably submit.

## **22. CLAUSE TWENTY-SECOND - CORRESPONDENCE AND NOTIFICATION**



-----DRAFT CONTRACT-----

**22.1.** All correspondence, reports and notifications arising from the execution of this CONTRACT shall be made in writing and shall only be deemed received by the CONTRACTING PARTY and the CONTRACTED PARTY if delivered to the addresses indicated below by one of the parties to the other or to any other addresses that may be communicated by the PARTIES throughout the term of this CONTRACT.

**CONTRACTING PARTY:**

BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON

To the attention of: Bidding and Contracts Division

1701 22nd Street NW, Washington, D.C., Zip Code 20008 - USA

Phone: (202) 518-7348

Fax: (202) 483-4684

Email: chf.dlc.cabw@fab.mil.br

**CONTRACTED PARTY:**

Name of the CONTRACTED PARTY

Attention: Mr./Ms. **Name of the legal representative**

Address 1:

Address 2:

Telephone:

Fax

Email:

The parties have signed this CONTRACT in the presence of the undersigned witnesses.

Washington, D.C., **XXXX**, 2024.

**CONTRACTING PARTY:**

\_\_\_\_\_  
JANO FERREIRA DOS SANTOS, Col.

Head of BACW

**CONTRACTED PARTY:**

\_\_\_\_\_  
LEGAL REPRESENTATIVE

Company's Name





-----**DRAFT CONTRACT**-----

**WITNESSES:**

\_\_\_\_\_  
MICHELE DE SOUZA SIQUEIRA, Lt. Col.  
Chief of Fiscal Division, BACW

\_\_\_\_\_  
MONITOR OF THE CONTRACT

**WITNESS OF THE CONTRACTED PARTY:**

\_\_\_\_\_  
NAME: ..... ID no.....

DRAFT



-----**DRAFT CONTRACT**-----

**ANNEX A**

**TERM OF REFERENCE**

**DRAFT**



-----**DRAFT CONTRACT**-----

**ANNEX B**

**PRICE PROPOSAL**

**DRAFT**



**DRAFT CONTRACT**

**ANNEX C**

**PHYSICAL-FINANCIAL SCHEDULE**

<b>PHASE</b>	<b>DESCRIPTION</b>	<b>VALUE (US\$)</b>	<b>DEADLINE</b>	<b>PAYMENT TERM</b>
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
<b>TOTAL</b>		<b>XXXXXX</b>		



MINISTÉRIO DA DEFESA  
COMANDO DA AERONÁUTICA

CONTROLE DE ASSINATURAS ELETRÔNICAS DO DOCUMENTO

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Este documento foi assinado e conferido eletronicamente com fundamento no artigo 6º, do Decreto nº 8.539 de 08/10/2015 da Presidência da República pelos assinantes abaixo:

Assinado via ASSINATURA CADASTRAL por Ten Cel Int MICHELE DE SOUZA SIQUEIRA no dia 25/06/2024 às 22:02:50 no horário oficial de Brasília.

Assinado via ASSINATURA CADASTRAL por Cel JANO FERREIRA DOS SANTOS no dia 25/06/2024 às 22:18:20 no horário oficial de Brasília.

Assinado via ASSINATURA CADASTRAL por Ten Cel Int RONALD WILLIAM TURQUE DE ARAUJO no dia 26/06/2024 às 07:45:10 no horário oficial de Brasília.